

January 7, 2003

C. Wayne Ives, Hydrogeologist
Watershed Management Bureau
NH Department of Environmental Services
PO Box 95 - 6 Hazen Drive
Concord, NH 03302-0095

Re: Instream Flow Rules Initial Proposal and Rulemaking Hearing

Dear Mr. Ives,

The seven undersigned groups support the August, 2002 draft of the instream flow rules. Although we are disappointed that the flow rules will not be implemented in their entirety to all rivers in the River Management Protection Program, as required under RSA 483:9-c, we support this pilot introduction of the rules and strongly urge the Department to get on with the business of implementing them.

HB 1449, which required the instream flow rules pilot projects, passed the NH legislature because of an impressive collaborative effort by conservation and business stakeholders. That effort represents a level of agreement that is rare on such a potentially controversial issue. The August revision of the rules reasonably implements the requirements of HB1449 and Chapter 278, Laws of 2002, and the proposed pilot projects. It also reflects the concepts contained in recent drafts of the flow rules.

Given the fact that the flow rules requirement is now 12 years past due, it is crucial that the Department make progress on implementing these pilot projects. The state's population has expanded significantly and the number of water shortage issues has only increased in the interim. We believe these pilot projects are a minimal but much needed first step toward implementation of this important policy.

The rules and HB 1449 appropriately leave the science of instream flows to a committee of technical experts and the water management plan and its implementation to a stakeholder committee. The rules appropriately emphasize water conservation since, from a practical standpoint, demand is more manageable than increasing supply of this finite resource.

We have one area of concern regarding a provision of the January 8, 2002 revision of the rules that was omitted from the current draft. Section 1903.02 of the January draft, which required application of the US Fish and Wildlife Service's Aquatic Base Flow policy for hydro facilities, was omitted from the current draft. We believe this provision should continue to apply to the operation of hydro facilities despite their absence in the two pilot watersheds. It is conceivable that small hydro facilities could be developed on either river at some future time, and the absence of any provisions in the rules addressing them could well mean the Water Management Plans no longer meet the requirement of maintaining the protected flows. Hydro facilities need to do their part in the management of water use. Since this pilot version of the rules will be a model for future flow rules, the hydro provisions need to remain in them.

Given the lateness of these rules, the coalition supporting HB1449, and the growing pressure on the state's water resources, we urge the Department to adopt and implement these rules on a schedule in keeping with the requirements of HB1449.

Sincerely,

New Hampshire Rivers Council
Appalachian Mountain Club
Connecticut River Watershed Council
New Hampshire Coldwater Fisheries Coalition
Lamprey River Advisory Committee
Souhegan Watershed Association
Isinglass River Protection Project